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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Elimination of racism, racial discrimination, xenophobia and related intolerance

Promotion and protection of human rights

The rule of law at the national and international levels

Security Council
Sixty-eighth year

Letter dated 17 May 2013 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the Republic of Azerbaijan, I would like to draw your attention to the letter dated 9 May 2013 from the Permanent Representative of the Republic of Armenia (S/2013/279) in connection with the briefing by the Chairperson-in-Office of the Organization for Security and Cooperation in Europe (OSCE) to the Security Council on 7 May 2013.

It is notable that, in contrast to his almost identical letter sent on the same occasion last year (see S/2012/88), the Permanent Representative of Armenia surprisingly did not express this time his discontent with the opening of discussions on the Daghlyq Garabagh (Nagorno-Karabakh) issue in the Security Council. The reason for such inconsistency is simple and explained by the fact that, notwithstanding Armenia's opposition to even mentioning the problem or its various aspects outside what it calls the "agreed format", not only the OSCE Chairperson-in-Office, but also the vast majority of Council members specifically referred to or made substantial comments on the matter.

It seems also that the Permanent Representative of Armenia inattentively listened to the statement by Azerbaijan at the briefing (see S/PV.6961). Otherwise, he would refrain from asserting that "the representative of Azerbaijan did not even recognize the role of the Co-Chairs and their contribution to the peace process". In its statement, Azerbaijan pointed out that "[t]he OSCE provides an ongoing forum

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for discussions on settling the conflict between Armenia and Azerbaijan" and took "positive note of the support of the Chairperson-in-Office for mediation efforts in that regard".

It is clear that the letter from the Permanent Representative of Armenia not only failed to respond to the arguments expressed in the statement by Azerbaijan, but also provided yet another important example of Armenia's falsifications and manifest disregard of the Charter of the United Nations and international law.

Thus, according to Armenia's opinion, Azerbaijan allegedly refused to comply with the key provisions of the Security Council resolutions of 1993 regarding the establishment of a ceasefire and thus obstructed their timely implementation and nullified their intended effect. Numerous facts and documents, including the verbatim records of the Security Council meetings and statements and reports of the Chairpersons of the Minsk Conference of the Conference on Security and Cooperation in Europe, easily refute Armenia's interpretation of the events and prove its deliberate non-compliance with the resolutions and consistent attempts to obstruct the peace process. Indeed, Armenia's territorial claims towards and military actions against Azerbaijan were aimed from the very beginning at seizing the territories by means of force and fundamental change of their demographic composition.

The Permanent Representative of Armenia once again groundlessly blamed Azerbaijan for allegedly misinforming the members of the Security Council about the work and conclusions of the OSCE 2005 fact-finding and 2010 field assessment missions to the occupied territories of Azerbaijan. However, the findings of those missions speak for themselves. Thus, in its report, the OSCE fact-finding mission in 2005 sought to analyse the situation of settlers in the occupied areas outside the Daghlyq Garabagh region of Azerbaijan. It concluded that "[s]ettlement figures for the areas discussed in this report, whose populations the fact-finding mission has interviewed, counted or directly observed, are as follows: in Kelbajar district approximately 1,500; in Agdam district from 800 to 1,000; in Fizuli district under 10; in Jebrail district under 100; in Zangelan district from 700 to 1,000; and in Kubatly district from 1,000 to 1,500. Thus, the mission's conclusions on the number of settlers do not precisely correspond with population figures provided by the local authorities, which were higher" (see A/59/747-S/2005/187, p. 33).

It is essential to note that the Armenians resided in none of the above-mentioned districts of Azerbaijan before the conflict. In 2010, the OSCE Minsk Group Co-Chairs, joined by OSCE and Officials of the Office of the United Nations High Commissioner for Refugees, conducted a field assessment mission in the occupied territories of Azerbaijan. According to the findings of the mission, about 14,000 Armenian settlers have replaced 700,000 Azerbaijanis forced to leave (see A/65/801-S/2011/208). There are no doubts about the intentional and organized character of settlements. Thus, in its 2005 report, the fact-finding mission noted that "disparate settlement incentives traceable to the authorities within and between the various territories" existed (A/59/747-S/2005/187, p. 35). According to the International Crisis Group, such incentives include, among others, "free housing, social infrastructure, inexpensive or free utilities, low taxes, money and livestock" (International Crisis Group report of 14 September 2005, p. 7).

It is indisputable that Armenia, as the occupying Power, and its subordinate separatist regime in the occupied territories of Azerbaijan are the only addressees of

the call of the Co-Chairs of the OSCE Minsk Group to refrain from actions that would change the demographic, social or cultural character of those territories (such as further settlement, the erection of monuments and the changing of place names). Armenia, both directly by the use of its own armed forces and agents and indirectly through the use of its subordinate separatist regime in the occupied Daghlyq Garabagh region and other elements for which it bears international responsibility, has breached international law in seizing and continuing to occupy and control that region and surrounding areas of Azerbaijan. In other words, Armenia is responsible not only for the actions of its own armed forces and other organs and agents of its Government, but also for the actions of the subordinate separatist regime illegally created by it in the occupied territories of Azerbaijan.

For this reason, the Permanent Representative of Armenia failed to explain in his letter why the recommendations of the two OSCE-led fact-finding and fact-assessment missions remained on paper. He likewise refrained from commenting on the reports regarding the transfer of Syrian Armenians into the occupied territories and on his country's attempts to operate flights into and out of those areas. Indeed, facts are stubborn things, and even sophisticated falsification inherent in Armenia's propaganda methods is unable to alter the state of facts and evidence.

Speculations on the fictitious "armenophobia", made-up stories about "the systematic acts of vandalism", "contempt towards human values and heritage" and the "promotion and manifestation of racism and hate crimes" in Azerbaijan are also ridiculous and beneath all criticism. Authors of such fabrications disregard the simple fact that, unlike Armenia, which has implemented the total ethnic cleansing of both its own territory and the occupied territories of Azerbaijan of all non-Armenians and thus succeeded in creating a uniquely mono-ethnic culture in those areas, Azerbaijan has preserved its ethnic and cultural diversity to the present day and many Armenians are living not only in the occupied Daghlyq Garabagh region, but also in the capital and other major cities of Azerbaijan.

Moreover, no single Azerbaijani historic and cultural monument was left undamaged, and no sacred site escaped desecration, both in the occupied territories and in Armenia. Systematic efforts are being undertaken towards altering the historical and cultural features of the occupied areas. Thus, in clear violation of international law, alleged "reconstruction" and "development" projects for Shusha, unique cultural and historical centre of Azerbaijan, and "archaeological excavations" in Aghdam and other occupied territories of Azerbaijan are carried out with the sole purpose of removing any signs of their Azerbaijani cultural and historical roots. As for the fate of the Azerbaijani historical and cultural heritage in Armenia, those monuments which survived until the beginning of the conflict have since been destroyed, such as the Damirbulag mosque in Yerevan. The mosques and Azerbaijani monuments in other places of Armenia shared the same fate, together with ancient or modern Azerbaijani cemeteries and toponyms of Azerbaijani origin, which have been erased from present-day Armenia (for more about the war against Azerbaijani cultural heritage see A/62/691-S/2008/95).

It would be useful and helpful if, instead of commenting on the developments that had occurred in the case of Ramil Safarov, the Permanent Representative of Armenia would recall that his own President had unquestionably confessed his direct involvement in brutal massacres during the conflict which claimed the lives of thousands of Azerbaijani civilians, including children, women and the elderly.

Evidence of the special relationship in Armenia with terrorists and war criminals can also be seen in their glorification at the State level, including raising them to the status of national heroes and bestowing State decorations on them.

The letter from the Permanent Representative of Armenia is illustrative of that Member State's uninterrupted attempts to create a wrong impression of the real situation on the ground and to deflect the attention of the international community from the urgent need to address the main problems caused by its continuing aggression against Azerbaijan. Obviously, Armenia's assertions about Azerbaijan's "subversive and terrorist actions", "attacks against civilian health-care facilities, schools and kindergartens" and "threats against civilian aircraft" are nothing other than pure fiction and yet another proof of Yerevan's irresponsible and provocative attempt to mislead the international community.

While expressing his preoccupation with human rights and fundamental freedoms of the Armenians residing in Daghlyq Garabagh, the Permanent Representative of Armenia omitted to mention the rights and freedoms of the significantly larger Azerbaijani population of the same region, which were deliberately and savagely suppressed as a result of their forcible expulsion during Armenia's aggression against Azerbaijan. It is obvious that one cannot demand the legitimation of privileges at the core of which is the discriminatory denial of fundamental rights and freedoms with respect to others.

In self-serving manner, the Permanent Representative of Armenia once again referred to the principle of self-determination. It is obvious that Armenia is speculating on this principle with the sole purpose of covering up the results of its unlawful use of force and ethnic cleansing and achieving the annexation of the captured territories of Azerbaijan. Indeed, in apparent contravention of the international legal understanding of self-determination, Armenia is trying to impose a view that this principle can be applied in the form of unilateral secession to persons belonging to the Armenian ethnic minority group residing in Azerbaijan. The danger here is obvious. If accepted, this approach would affect the true value of self-determination as such, undermine the unity of all multi-ethnic societies and provoke the rise of discrimination and intolerance on racial, ethnic, religious and cultural grounds throughout the world. The principle of self-determination exists in reality as a rule of international law and, as such, applies to the peoples of the colonially defined territorial units and peoples subjected to alien subjugation, domination and exploitation, including peoples under foreign military occupation. There can be no doubt that persons belonging to the Armenian minority group and residing in the Daghlyq Garabagh region of Azerbaijan have nothing to do with either of these categories of peoples.

As we have repeatedly stated on a number of occasions in the past, the critical factor in addressing the issue of self-determination with regard to the conflict between Armenia and Azerbaijan is that all actions aimed at tearing away a part of the territory of Azerbaijan were unlawful and constituted a violation of the fundamental norm of respect for the territorial integrity of States, as well as a violation of other peremptory norms of general international law. In its advisory opinion of 22 July 2010, the International Court of Justice reaffirmed that the illegality attached to unilateral secessions stems from the fact that "they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory

character (*jus cogens*)". Consequently, the claims of Armenia, which resorted to the unlawful use of force to occupy the territory of Azerbaijan and committed the most serious international crimes, such as war crimes, crimes against humanity and even genocide, are contrary to and unsustainable under international law.

At the same time, the concept of self-determination provides for the participation of peoples in the governance of their States. In this context, the inhabitants of Daghlyq Garabagh, including both the Armenians and Azerbaijanis, are entitled to the full benefit of human rights and freedoms, including the right to self-determination within the internationally recognized boundaries of the Republic of Azerbaijan and as part of its population, which is the primary subject of the right to self-determination under international law.

According to the Permanent Representative of Armenia, his Government welcomed the statements on the conflict settlement made by the Co-Chair countries of the OSCE Minsk Group. However, as the practice shows, the commitments and deeds of Armenia have always been at variance. In reality, by disregarding the resolutions of the Security Council and General Assembly, by challenging the OSCE-led peace efforts, by continuing to illegally occupy the territories of Azerbaijan, by deliberately denying the right of more than 1 million Azerbaijani refugees and internally displaced persons to return to their homes, by pursuing racist ideology and by misinterpreting the fundamental norms and principles of international law, Armenia clearly demonstrates who is actually responsible for undermining regional peace, security and stability.

Indeed, what is in reality fuelling regional tensions is the continued illegal occupation of the territories of Azerbaijan and the persistent contempt for basic human rights of Azerbaijani internally displaced persons and refugees. The only way to address the existing challenges and concerns and achieve the solution of the conflict is to ensure that the occupation of the territories of Azerbaijan is ended and that the inalienable right of the forcibly displaced population to return to their homes is exercised without further delay.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 39, 67, 69 and 83, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative